

1 **MICHAEL A. RAMOS**  
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2 County of San Bernardino  
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3 San Bernardino, CA 92415-0004

4 By: **TRISTAN D. SVARE**  
Deputy District Attorney  
5 (909) 387-6533 fax (909) 387-6868  
6 Attorney for Plaintiff

7  
8 IN THE SUPERIOR COURTS OF THE STATE OF CALIFORNIA IN AND FOR THE  
9 COUNTY OF SAN BERNARDINO – SAN BERNARDINO / EAST VALLEY DIVISION

10 THE PEOPLE OF THE STATE OF CALIFORNIA ) CASE NO. FSB-1001196  
11 )  
12 Plaintiff, ) EXHIBIT LIST / WITNESS LIST /  
13 vs. ) EXPECTED TRIAL  
14 CURTIS DUHART (08/27/1971), ) MATTERS/MOTIONS  
15 Defendant. )  
16 ) DATE: June 28, 2010  
TIME: 8:30 a.m.  
DEPT: S-26

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1 **STATEMENT OF ANTICIPATED CASE**

2 On or about March 19, 2010, defendant Curtis Duhart (hereinafter "Defendant"), was  
3 observed in the late evening hours at Secombe Lake Park in the City of San Bernardino by  
4 San Bernardino Police officers Wilson and Loreman. Defendant was seen engaged in  
5 sexual intercourse (penile/vaginal intercourse), with victim Jane Doe (confidential per Penal  
6 Code Section 293), who is a dependent adult per Penal Code 368(h) and 261(a)(1). Victim  
7 Jane Doe immediately requested help, stating she was being raped. Defendant provided  
8 statements, both pre- and post-Miranda, describing how he picked up the victim at Baseline  
9 and Sierra avenues in San Bernardino and how she propositioned him for sex, to which he  
10 acquiesced. The victim, showing signs to the responding Officers of obvious developmental  
11 delay and difficulties, described being followed by the defendant, and being told what to do  
12 by defendant, and complying with defendant's demands because she was incapable of  
13 doing otherwise.

14 Defendant was arrested, and asked for leniency, as he "has a wife and kids." He  
15 also has numerous prior felony convictions, including a prior 'strike' conviction, a prior  
16 forgery conviction, and is presently on felony probation in case FSB902640 for H&S 11350  
17 Felony Possession of a Controlled Substance (Cocaine Base), and admission of a prior  
18 conviction per 667.5(b). Meanwhile, the victim has been in 'special education classes'  
19 throughout high school, and presently (though born in 1988, and age 20, victim as a  
20 dependent adult qualifies to continue in special high school course through age 22),  
21 received government assistance due to her developmental disability via the inland Regional  
22 Center, and on or about April 22, 2009 was examined by psychologist Edward G. Frey,  
23 Ph.D., who determined victim had a full-scale IQ score placing her in the range of mild  
24 mental retardation. Victim reads at a comparable level of first or second grade, and does  
25 spelling at a comparable level of second grade. While victim does maintain a job via a  
26 works program for persons with disabilities via Cal State San Bernardino, her condition is  
27 readily apparent and her social skills are stunted.

1 Defendant is charged with PC 368(b)(1) abuse/endangerment of a dependent adult,  
2 and PC 261(a)(1) rape of an incompetent person incapable of giving legal consent.

3 Defendant has further allegations of prior felony convictions, and a possible prior 'strike'  
4 offense.

5 Defendant has pleaded not guilty, and the matter is set for trial. There is a trailing  
6 citation for San Bernardino Municipal Code 12.68.020(a) for "Occupying Park After Hours,"  
7 arising from this situation. Also, Defendant's case in FSB902640 is pending violation of  
8 probation.

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4 TO THE COURT, AND DEFENDANT, AND HIS ATTORNEY OF RECORD:  
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6 PLEASE TAKE NOTICE that the People of the State of California, by its attorney of record,  
7 Michael Ramos, District Attorney for the County of San Bernardino, hereby identify the  
8 following exhibits anticipated to be used at trial:  
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- 10 1. Maps and Photographs of Secombe Lake Park, and the areas from Secombe  
11 park to/from Baseline Avenue and Sierra Avenue in San Bernardino County and  
12 City, California;  
13 2. Clothes of Victim;  
14 3. Sex Kit of Victim;  
15 4. Clothes of Defendant;  
16 5. Sex kit of Defendant;  
17 6. Photographs from Scene, and of Defendant's vehicle or type of vehicle (2000  
18 Chevy Suburban);  
19 7. Priors, rap sheet, 969b packet(s) for Defendant;  
20 8. Other Exhibits, as arise.  
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1 PLEASE TAKE NOTICE that the People of the State of California, by its attorney of record,  
2 Michael Ramos, District Attorney for the County of San Bernardino, hereby identifies the  
3 following witnesses anticipated to be called at trial:

- 4
- 5 1. San Bernardino Police Department Officer / Municipal Enforcement Officer
- 6 Brian Wilson (first responder);
- 7 2. San Bernardino Police Department Officer / Municipal Enforcement Officer
- 8 Douglas Loreman (first responder);
- 9 3. San Bernardino Police Department Officer Sherry Vasilis (responding
- 10 investigating officer, interviews of defendant and victim);
- 11 4. San Bernardino Police Department Officer L. Reyes (responding officer,
- 12 interviews of victim and defendant, arrest of defendant);
- 13 5. San Bernardino Police Department Officer Loera;
- 14 6. San Bernardino Police Department Officer S. Saenz (transport of evidence );
- 15 7. San Bernardino Police Department Officer F. Fuentes (transport of
- 16 evidence);
- 17 8. San Bernardino Police Department Forensic Specialist Crichton;
- 18 9. Law Enforcement Medical Services Forensic Nurse Kris Rowney;
- 19 10. San Bernardino County APS / Adult Protective Services worker Christy
- 20 Kincaid;
- 21 11. Inland Regional Center case worker Vicki Smith;
- 22 12. Psychologist Edward G. Frey, Ph.D.;
- 23 13. Kadera Fowler, family member of victim, San Bernardino, CA;
- 24 14. Betty Fowler, family member of victim, San Bernardino, CA;
- 25 15. Victim, Jane Doe (per PC 293);
- 26 16. Other witnesses, as needed.

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1 PLEASE TAKE NOTICE that the People of the State of California, by its attorney of record,  
2 Michael Ramos, District Attorney for the County of San Bernardino, hereby identifies the  
3 following matters anticipated to be addressed at trial:

- 4 1. Prior Incidents, Convictions, and Police Reports on Defendant, if any,  
5 pursuant to California Evidence Code §§ 1101 (prior acts) and 1109 (prior  
6 abuse), and 1220 (admissions by party) and 1230 (statement against  
7 interest), as well as 785 (impeaching credibility), including but not limited to:
  - 8 a. PC 245(a)(1) felony Assault from FCH5322 / RCR16418 from 1990 in  
9 San Bernardino County (term of 4 years prison);
  - 10 b. PC 242 Assault from 90-M-08183 from 1990 in Pomona, LA County;
  - 11 c. PC 148.9 – False ID to Peace Officer, from 1994 from MWV03238 in  
12 San Bernardino County, 10 days jail;
  - 13 d. PC 148.9 – False ID to Peace Officer, from 1994, from 94-M-06788 from  
14 Pomona, LA County, 4 days jail;
  - 15 e. PC 118 Perjury from FVA05799 from 1996 in San Bernardino County, 11  
16 days jail, 24 months probation;
  - 17 f. PC 459 Burglary and PC 470(A) Forgery from FSB15114 from 1998 in  
18 Sa Bernardino County, 3 years prison;
  - 19 g. Violation of Parole in 2000 from San Bernardino County;
  - 20 h. Violation of Parole in 2001 from San Bernardino County;
  - 21 i. Violation of Parole in 2002 from San Bernardino County;
  - 22 j. PC 488 petty theft from 2002 from FSB031656 from San Bernardino  
23 County, 180 days jail;
  - 24 k. Misdemeanor HS 11364 and HS 11550(A) in 2004 from Pomona in LA  
25 County, 180 days jail;
  - 26 l. PC 487c) Grand Theft from Person in 2004 from KA06812001 from  
27 Pomona in LA County, 32 months prison;
  - 28 m. Violation of Parole in 2007 from Pomona in LA County;

- n. HS 11550 Under the influence from 2007 from MSB079971 from San Bernardino County, 90 days jail;
  - o. PC 69 Resisting Officer in 2007 from XEAKA08086601 in Pomona in LA County, 2 years prison;
  - p. HS 11350(a) Possession from 2009 in FSB902640 from San Bernardino County, 36 months probation and 6 months jail;
  - q. Others, as may occur or arise;
1. Evidence of Statements of Defendant, pursuant to California Evidence Code §§ 1220 and 1230, and 785, including statements made by Defendant to:
    - a. San Bernardino Police Department Officers;
    - b. San Bernardino County Sheriff's/Coroner's Department Deputies and Jailers;
    - c. other Law Enforcement Officers;
    - d. Family members of Defendant and/or Victim;
    - e. And to any other percipient witnesses;
  3. Evidence of Spontaneous Statements by Victim and/or Witnesses, pursuant to California Evidence Code §§ 1240 and 1241 (spontaneous and contemporaneous declarations), 1250, 1251, and 1253 (mental or physical state) and 1290 (prior testimony), upon proper laying of foundation;
  4. Prevention of Defense Counsel and/or Defendant from raising, arguing, mentioning, or alluding to previously briefed, litigated, and decided issues in this matter, including limitation on Defendant on discussing, asking about, or alluding to "rape shield" evidence regarding victim's possible prior sexual activity with persons other than Defendant, as per Evidence Code § 782;
  5. Limitation on defense's calling of any defense experts, as no discovery on names, reports, opinions, nor any information has been provided regarding any experts in forensic science, DNA, fingerprints, sexual assault examinations, medical status of victim and possible injuries, developmental

1 disabilities, psychology, mental retardation, competency and capacity, or any  
2 other subject for expert opinion testimony;

- 3 6. Prevention of testimony by defense by or about defendant's character – or  
4 "good character" - aside from that provided for in Evidence Code § 1102;  
5 and following appropriate Evidence Code §§ 352 and/or 402 hearings and  
6 laying of sufficient relevancy and foundation and admissibility and form;  
7 7. Admission of Originals, or Photocopies, or Photographs, of evidence  
8 involved in case, in lieu of originals, pursuant to laying of foundation, and/or  
9 stipulation by People and Defendant;  
10 8. Allowance for attorney Voir Dire;  
11 9. Allowance for private, individual Voir Dire of prospective jurors, if called for;  
12 10. Other Issues, as arise.

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15 Respectfully submitted this  
16 \_\_28th\_\_ day of June, 2010

17 **MICHAEL A. RAMOS**  
18 District Attorney

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20 By: \_\_\_\_\_  
21 **TRISTAN D. SVARE**  
22 Deputy District Attorney  
23 Attorney for Plaintiff  
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